



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

December 12, 2011

✓ Action California

REDACTED

Kinde Durkee

Treasurer, Action California

REDACTED

Re: Warning Letter

FPPC No. 11/445: Action California, and Kinde Durkee, Treasurer

Dear Ms. Durkee:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act ("Act"),¹ found in Government Code section 81000, et seq. This letter is in response to an audit performed by the Political Reform Audit Program of the Franchise Tax Board that alleged you failed to file Supplemental Independent Expenditure Reports in connection with independent expenditures supporting Lloyd Levine.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that you failed to file two Supplemental Independent Expenditure Reports with the Secretary of State's office, and with the elections official of the county with the largest number of registered voters when Action California made independent expenditures in support of Lloyd Levine totaling \$7,332 and \$13,288 during the period ending May 17, and June 30, 2008 respectively.

In addition to any campaign statements required by the Act, if a committee has made independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year to support or oppose a candidate, it shall file independent expenditure reports at the same time, covering the same periods, and in the places where the candidate would be required to file campaign statements, as if it were formed or existing primarily to support the candidate. (Section 84203.5.)

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Lloyd Levine was a candidate in the 2008 Senate District 23 Election, and pursuant to Gov. Code §84215(b), his filing obligations were with the Secretary of State's office and with the elections official of the county with the largest number of registered voters in the district affected.

Your actions violated the Act because you failed to file two Supplemental Independent Expenditure Reports, Form 465, with the proper filing officers. However, because the committee is terminated and does not have an enforcement history, we are closing this matter with a warning letter.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

Although the FPPC is not seeking a penalty in the current matter, you are still responsible for any late filing fees assessed by your filing officers. (Section 91013.)

The FPPC publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or a manual, or guidance regarding your obligations, please call the FPPC's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Please feel free to contact Teri Rindahl at (916) 327-2018, with any questions you may have regarding this letter.

Sincerely,

REDACTED

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Gary S. Winuk, Chief
Enforcement Division

GSW/tr